

Remarks

Applicants submit the following remarks in support of the patentability of the presently claimed invention over the disclosures of the references relied upon by the Examiner in rejecting the claims. Further and favorable reconsideration is respectfully requested in view of these remarks.

Initially, claims 1 and 13-24 have been amended to correct inadvertent errors of an editorial nature, such changes being self-explanatory.

The rejection of claims 1-24 under 35 U.S.C. §103(a) as being unpatentable over US 2002/0066887 (US 6,572,938) is respectfully traversed.

In discussing the reference disclosures, the Examiner refers to Examples 9, 16 and 18 of the references, and states that each component of the present invention is disclosed by the references, and that it would have been obvious to mix the disclosed compounds according to their properties and their need to arrive at the claimed invention.

However, the present invention represents a selection invention, and as recognized by the Examiner is not concretely disclosed in the references. This is particularly apparent from Examples 9, 16 and 18 specifically cited by the Examiner, as discussed below.

Example 9 teaches a composition comprising compounds (1), (2), (4) and (5), but it lacks compound (3) which is indispensable for the composition of claim 1 of the present invention, and also lacks compound (7) indispensable for claim 7.

Example 16 teaches a composition comprising compounds (2), (4) and (5), but it lacks compounds (1) and (3) indispensable for claim 1, and also lacks compounds (1) and (7) indispensable for claim 7.

Example 18 teaches a composition comprising compounds (2), (3), (4) and (5), but it lacks compound (1) indispensable for claim 1, and also lacks compounds (1) and (7) indispensable for claim 7.

To establish a clear distinction between the present invention and the references, Applicants have compared the physical properties disclosed in all Examples of the present invention with those disclosed in Examples 9, 16 and 18 as representatives of the references. Properties measured with the same conditions between the two inventions are

compared, and properties measured under different conditions are addressed by an additional experiment conducted by one of the inventors. The results are set forth in the attached Rule 132 Declaration.

The symbols in the Table in the Declaration are identical with those disclosed in the specification of the present application, that is, NI denotes upper limit temperature of a nematic phase, T_c is lower limit temperature of a nematic phase, V_{th} is threshold voltage and VHR-2 is voltage holding ratio measured at 25°C on an element which is obtained by heating at 100°C for 250 hours. The measuring conditions are also the same as in the specification.

As apparent from the results set forth in the Declaration, the composition of the present invention has a broader nematic temperature range than the references, and a higher VHR-2 than the references. There is no suggestion in the references which would lead one of ordinary skill in the art to expect these improved properties could be achieved by a composition according to the present invention.

For these reasons, Applicants take the position that the rejection under 35 U.S.C. §103(a) should be withdrawn.

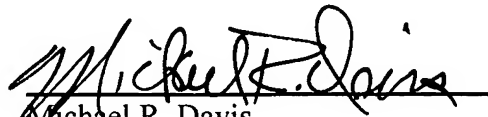
The rejection of claims 1-24 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of US 6,572,938 is respectfully traversed.

The comments set forth above in connection with the rejection under 35 U.S.C. §103(a) based on this reference are equally applicable to the double patenting rejection, which should therefore also be withdrawn.

Accordingly, in view of the foregoing amendments and remarks, it is submitted that each of the grounds of rejection set forth by the Examiner has been overcome, and that the application is in condition for allowance. Such allowance is solicited.

Respectfully submitted,

Eiji OKABE et al.

By: 
Michael R. Davis
Registration No. 25,134
Attorney for Applicants

MRD/pth
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
October 27, 2004